

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION

IN RE:

Richard F. Berlo Jr.

Option One Mortgage Corporation,

VS.

Richard F. Berlo Jr.

CHAPTER 13  
CASE NO. 05-10805-JNF

MOTION FOR RELIEF FROM STAY

To the Honorable Joan N. Feeney:

Option One Mortgage Corporation, your moving party in the within Motion, respectfully represents:

1. The movant has a mailing address of 6561 Irvine Center Drive, Irvine, CA 92618.
2. The debtor, Richard F. Berlo Jr., has a mailing address of 293-295 Forest Hills Street, Jamaica Plain (Boston), MA 02130.
3. On February 9, 2005, the debtor filed a petition under Chapter 13 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Massachusetts.
4. The debtor's Chapter 13 plan was confirmed on February 9, 2006.
5. The movant is the holder of a first mortgage on real estate in the original amount of \$406,000.00 given by Richard F. Berlo Jr. and Irene C. Skapriwsky to Option One Mortgage Corporation on or about October 21, 2003. Said mortgage is recorded with the Suffolk County Registry of Deeds at Book 33110, Page 165 and covers the premises located at 293-295 Forest Hills Street, Jamaica Plain (Boston), MA 02130.
6. Said mortgage secures a note given by Richard F. Berlo Jr. and Irene C. Skapriwsky to Option One Mortgage Corporation in the original amount of \$406,000.00.

7. The mortgage has not been assigned.
8. The movant is unaware of any recorded declaration of homestead against said property.
9. There is no other collateral securing the obligation.
10. As of July 7, 2006, approximately \$411,767.73 in principal, interest, late fees and other charges was due with regard to Option One Mortgage Corporation's note and mortgage.
11. There are no other encumbrances on the property.
12. The pre-petition arrearage is \$9,362.81.
13. According to the debtor's schedules, the fair market value of the subject property is \$430,000.00. The liquidation value of the subject property is \$401,739.20, calculated as the fair market value less a reasonable realtor's fee (6%); deed stamps (\$1,960.80) and anticipated costs incurred for a real estate closing of \$500.00.
14. The debtor has no equity in the property.
15. The debtor has failed to remain current with the post-petition payments to Option One Mortgage Corporation.
16. The loan is in default for the July 1, 2006 post-petition payment and all payments thereafter.
17. The total post-petition arrearage due as of September 6, 2006 is \$10,043.84, excluding attorney's fees and costs. As a result of this motion, attorney's fees and costs of approximately \$535.00 have accrued. This figure may increase as additional attorney's fees and costs continue to accrue.
18. The total post-petition arrearage through the anticipated hearing on this motion would also include any additional monthly mortgage payments in the amount of \$3,771.11, which payments are due on the first of every month and late charges in the amount of \$96.85 which accrue on the sixteenth of every month. The post-petition arrearage would also include any additional expenses, attorney's fees and costs that accrue from the date of the filing of this motion through the date of

the hearing.

19. The property is not necessary for a successful reorganization of the debtor.

20. The movant seeks relief from stay as a secured creditor to enforce its rights under its loan documents and applicable law. In support thereof, the movant states that it is entitled to relief as follows:

I. Pursuant to 11 U.S.C. 362 (d)(1) for cause on the basis that the debtor has not made timely post petition payments, and that the debtor has failed to provide the plaintiff with adequate protection; and

II. Pursuant to 11 U.S.C. 362 (d)(2) on the basis that the debtor has no equity in the subject property and the property is not necessary for effective reorganization.

WHEREFORE, the movant prays that it, and its successors and/or assigns, be granted relief from the automatic stay for the purpose of: (i) exercising its rights under its agreements with the debtor and under applicable law, including, without limitation, taking possession of the mortgaged premises and/or foreclosing or accepting a deed in lieu of foreclosure of its mortgage on said premises; (ii) preserving its right to seek any deficiency to the extent permitted by state and federal law, including 11 U.S.C. §524(a); (iii) bringing such actions, including, without limitation, summary process proceedings, as are permissible by law; and (iv) that the Court order such other and further relief as may be just and proper.

Respectfully submitted,  
Option One Mortgage Corporation,  
By its Attorney

/s/ Andrew S. Harmon  
\_\_\_\_\_  
Andrew S. Harmon, Esquire  
BBO# 568213  
HARMON LAW OFFICES, P.C.  
P.O. Box 610389  
Newton Highlands, MA 02461-0389  
617-558-0500

Dated: September 6, 2006

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION

IN RE:

Richard F. Berlo Jr.

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CERTIFICATE OF SERVICE

I, Andrew S. Harmon, Esquire, state that on September 6, 2006, I electronically filed the foregoing Motion for Relief from Stay and Proposed Order with the United States Bankruptcy Court for the District of Massachusetts using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

John Fitzgerald, Assistant U.S. Trustee

Carolyn Bankowski, Trustee

Bill N. Jacob, Esq. for the Debtor

I certify that I have mailed by first class mail, postage prepaid the documents electronically filed with the Court on the following non CM/ECF participants:

/s/ Andrew S. Harmon  
\_\_\_\_\_  
Andrew S. Harmon, Esquire  
BBO# 568213

Richard F. Berlo, Jr.  
293-295 Forest Hills Street  
Jamaica Plain (Boston), MA 02130

Irene C. Skapriwsky  
293-295 Forest Hills Street  
Jamaica Plain (Boston), MA 02130

City of Boston  
Tax Collector's Office  
P.O. Box 9711  
Boston, MA 02114

ASH//200506-0571/Berlo, Richard

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION

In re:

Richard F. Berlo Jr.,

Debtor.

CHAPTER 13  
CASE NO. 05-10805-JNF

**Order Granting Option One Mortgage Corporation Relief  
From The Automatic Stay And Leave To Foreclose Mortgage**

This matter has come before the Court, and after full consideration, and no objections having been filed after proper notice, it is hereby ordered that Option One Mortgage Corporation, its Successors and/or Assigns, Motion for Relief From the Automatic Stay is hereby granted and it may proceed to foreclose or accept a deed in lieu of foreclosure of the mortgage given by Richard F. Berlo Jr. and Irene C. Skapriwsky to Option One Mortgage Corporation dated October 21, 2003 and recorded with the Suffolk County Registry of Deeds at Book 33110, Page 165 and which covers the premises located at 293-295 Forest Hills Street, Jamaica Plain (Boston), MA 02130, and may exercise its rights under said Mortgage, including preserving its right to seek any deficiency to the extent permitted by state and federal law, including 11 U.S.C. §524(a), and may bring such actions, including, without limitation, summary process proceedings, as are permissible by law, all as set forth in its Motion.

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Honorable Joan N. Feeney  
United States Bankruptcy Judge

200506-0571